

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

JIMMY TOBIAS,	)	
1336 N Cranbrook Rd.	)	
Bloomfield Village, MI 48301	)	
	)	
Plaintiff,	)	Case No. 1:19-cv-02023
	)	
v.	)	
	)	
UNITED STATES DEPARTMENT OF	)	
INTERIOR, OFFICE OF THE SECRETARY,	)	
1849 C Street NW	)	
Washington, DC 20240	)	
	)	
Defendant.	)	

**COMPLAINT**

1. Plaintiff JIMMY TOBIAS brings this suit to overturn Defendant UNITED STATES DEPARTMENT OF INTERIOR, OFFICE OF THE SECRETARY's failure to timely respond to TOBIAS' FOIA requests.

**PARTIES**

2. Plaintiff JIMMY TOBIAS is an independent reporter with Pacific Standard magazine and The Guardian, and is the FOIA requester in this case.

3. Defendant DEPARTMENT OF INTERIOR (DOI) is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

**JURISDICTION AND VENUE**

4. This case is brought under 5 U.S.C. § 552(a)(6)(c)(i) and presents a federal question conferring jurisdiction on this Court.

5. Venue is proper under 5 U.S.C. § 552(a)(4)(B) because this District is always a permissible venue for federal FOIA suits.

**NOVEMBER 13, 2017 REQUEST (NPR-A BENEDETTO CORRESPONDENCE)**

6. On November 13, 2017, TOBIAS requested "[a]ll correspondence, including letters, memos, as well as emails and attachments, sent or received by senior advisor Kathleen Benedetto that contain one or more of the following phrases: "National Petroleum Reserve-Alaska", "NPR-A", "National Petroleum Reserve", "NPR", and/or "Petroleum Reserve". This request pertains to communications sent or received between August 1, 2017 and the date this request is processed." Ex. A.

7. On November 28, 2017, DOI acknowledged receipt of the request and classified the request as falling into the voluminous track, requiring more than sixty workdays for processing. Ex. B.

8. Between December 2017 and December 2018, TOBIAS contacted DOI on twelve occasions for an update. DOI sent four responses between December 2017 and July 2018, stating that the request was still being processed and reviewed and estimating that it should be completed within 30-60 business days.

9. As of the date of filing, DOI has produced no responsive records.

**MARCH 1, 2018 REQUEST (BENEDETTO COMER COMMUNICATIONS)**

10. On March 1, 2018, TOBIAS requested "[a]ll written or electronic communications, including email attachments, between Bureau of Land Management official Katherine Benedetto and Robert "Bob" Comer ([bob.comer@nortonrosefulbright.com](mailto:bob.comer@nortonrosefulbright.com)) of the lobbying firm Norton Rose Fulbright. This request seeks documents produced between July 1, 2017 and the date this request is processed." Ex. C.

11. As of the date of filing, DOI has not acknowledged receipt of the request or responded in any way.

**MARCH 1, 2018 REQUEST (BENEDETTO MINERALS COMMUNICATION)**

12. On March 1, 2018, TOBIAS requested "[a]ny written or electronic communications, including attachments, between Bureau of Land Management official Kathleen Benedetto and any representative, lobbyist or official of the International Minerals Association - North America and/or the lobbying firm Kountoupes Denham Carr & Reid . This request seeks documents produced between March 15, 2017 and the date this request is processed." Ex. D.

13. On March 8, 2018, DOI acknowledged receipt of the request and classified the request as falling into the complex track, requiring twenty-one to sixty workdays for processing. Ex. E.

14. Between April and December 2018, TOBIAS contacted DOI on nine occasions for an update. DOI sent a response on May 1, 2018, stating that the request was still being processed.

15. On December 31, 2018, DOI sent a message stating that no FOIA requests can be accepted or processed at this time due to the lapse in appropriations.

16. As of the date of filing, DOI has produced no responsive records.

**MARCH 6, 2018 REQUEST (BENEDETTO FREEMYER COMMUNICATIONS)**

17. On March 6, 2018, TOBIAS requested "[a]ll written or electronic communications, including attachments, between DOI staffer Kathleen Benedetto and lobbyist Allen Freemyer of the firm Freemyer & Associates, PC. This request seeks documents produced between April 1, 2017 and the date this request is processed." Ex. F.

18. On March 8, 2018, DOI acknowledged receipt of the request and classified the request as falling into the complex track, requiring twenty-one to sixty workdays for processing. Ex. G.

19. Between April and December 2018, TOBIAS contacted DOI on nine occasions for an update. DOI sent a response on October 24, 2018, stating that the request was still being processed.

20. As of the date of filing, DOI has produced no responsive records.

**MAY 21, 2018 REQUEST (BENEDETTO ALLEN RECORDS)**

21. On May 21, 2018, TOBIAS requested "[a]ny and all documents and written or electronic communications, including attachments, that are in the possession of Kathleen Benedetto and that pertain to the job reassignment of former Bureau of Land Management communications director Matthew Allen. Allen was reassigned from the BLM to the Bureau of Safety and Environmental Enforcement last year. This request seeks documents produced between April 1, 2017 and the date this request is processed." Ex. J.

22. On May 24, 2018, DOI acknowledged receipt of the request and classified the request as falling into the normal track, requiring six to twenty workdays for processing. Ex. K.

23. Between June and December 2018, TOBIAS contacted DOI on seven occasions for an update. DOI responded twice in that period of time, stating that the request was still being processed.

24. As of the date of filing, DOI has produced no responsive records.

**JULY 12, 2018 REQUEST (BENEDETTO PROTECT THE HARVEST)**

25. On July 12, 2018, TOBIAS requested "[a]ny and all written or electronic communications, including attachments, sent or received by Kathleen Benedetto, or her executive staff,

and any agent, representative or executive of the advocacy group Protect the Harvest (<http://protecttheharvest.com/>). This request includes any and all communications between Benedetto, or her executive assistants, and any email address that ends in "@protecttheharvest.com". This request includes any and all communications between Benedetto, or his executive assistants, and Brian Klippenstein. This request seeks records produced between March 1, 2017 and the date this request is processed." Ex. L.

26. On July 13, 2018, DOI acknowledged receipt of the request and classified the request as falling into the normal track, requiring six to twenty workdays for processing. Ex. M.

27. Between August and December 2018, TOBIAS contacted DOI on five occasions for an update. DOI responded once on August 22, 2018, stating that the request was still being processed.

28. As of the date of filing, DOI has produced no responsive records.

**JULY 23, 2018 REQUEST (MCALEAR MONUMENT COMMUNICATIONS)**

29. On July 23, 2018, TOBIAS requested "[a]ny and all emails, including attachments, between Christopher McAlear ([cmcalear@blm.gov](mailto:cmcalear@blm.gov)) and one or more of the following Interior Department and Bureau of Land Management employees: Randal Bowman ([randal\\_bowman@ios.doi.gov](mailto:randal_bowman@ios.doi.gov)), Kathleen Benedetto, Timothy Fisher, Sally Butts, Allison Ginn and/or Rachel Wootton. This request seeks documents produced between April 1, 2017 and December 1, 2017." Ex. N.

30. On September 24, 2018, DOI acknowledged receipt of the request and classified the request as falling into the complex track, requiring twenty-one to sixty workdays for processing. Ex. O.

31. On October 24, 2018, DOI asked TOBIAS if he was looking for a specific topic search within the emails to help in narrowing the search. TOBIAS responded the same day, specifying that he was seeking "email correspondence that relates broadly to Secretary Zinke's national monument review and the BLM team that was assigned to undertake that review." Ex. P.

32. As of the date of filing, DOI has not responded further or produced any responsive records.

**JULY 23, 2018 REQUEST (BENEDETTO SAEXPLORATION)**

33. On July 23, 2018, TOBIAS requested "[a]ny and all written or electronic communications, including attachments, sent or received by BLM employee Kathleen Benedetto that contain one or more of the following words or phrases: "SAExploration", "ANWR", "Donna Wixon", "Wixon", and/or "North Slope". This request also seeks any and all communications between Ms. Benedetto and Ms. Wixon, both BLM employees. This request also seeks any and all communications between Ms. Benedetto and any agent, representative or executive affiliated with SAExploration Inc., an oilfield exploration company seeking to conduct work in the Arctic National Wildlife Refuge. This request seeks records produced between April 1, 2018 and the date this request is processed." Ex. Q.

34. On September 24, 2018, DOI acknowledged receipt of the request and classified the request as falling into the complex track, requiring twenty-one to sixty workdays for processing. Ex. R.

35. Over the following months, TOBIAS contacted DOI numerous times for an update, but DOI never provided an update or responded at all.

36. As of the date of filing, DOI has produced no responsive records.

**AUGUST 28, 2018 REQUEST (BENEDETTO TWIN METALS)**

37. On August 28, 2018, TOBIAS requested "[a]ny and all written or electronic correspondence, including attachments, between Kathleen Benedetto and any employees, representatives or agents of the mining firm Antofagasta Plc, its subsidiary Twin Metals Minnesota or its lobbying firm WilmerHale. This request also seeks documents brought to any meetings between Ms. Benedetto and Twin Metals Minnesota, Antofagasta Plc or WilmerHale, copies of any documents describing the substance and contents of any of these meetings, & copies of any emails related to any such meetings." Ex. S.

38. On September 24, 2018, DOI acknowledged receipt of the request and classified the request as falling into the complex track, requiring twenty-one to sixty workdays for processing. Ex. T.

39. Over the following months, TOBIAS contacted DOI numerous times for an update, but DOI never provided an update or responded at all.

40. As of the date of filing, DOI has produced no responsive records.

**SEPTEMBER 11, 2018 REQUEST (BENEDETTO HILCORP)**

41. On September 11, 2018, TOBIAS requested "[a]ny and all written or electronic communications, including attachments, between BLM official Kathleen Benedetto and any officer, executive, representative and/or lobbyist for Hilcorp Energy Company, an oil and gas firm." Ex. U.

42. On September 20, 2018, DOI acknowledged receipt of the request and classified the request as falling into the complex track, requiring twenty-one to sixty workdays for processing. Ex. V.

43. Over the following months, TOBIAS contacted DOI numerous times for an update, but DOI never provided an update or responded at all.

44. As of the date of filing, DOI has produced no responsive records.

**OCTOBER 11, 2018 REQUEST (STEED JORJANI WISTERIA)**

45. On October 11, 2018, TOBIAS requested "records that were transmitted to Brian Steed and/or Daniel Jorjani by employees at the Florida-based lobbying firm Ballard Partners and that relate to Wisteria Island. Specifically, in an October 2017 email exchange between Ballard Partners' Dan McFaul, Daniel Jorjani and Brian Steed, Mr. McFaul mentions 'a package' of documents his firm was preparing to transmit to Jorjani and Steed regarding Wisteria Island. I would like a copy of the 'package' referenced in the email exchange." Ex. W.

46. On October 15, 2018, DOI acknowledged receipt of the request and classified the request as falling into the complex track, requiring twenty-one to sixty workdays for processing. Ex. X.

47. Over the following months, TOBIAS contacted DOI numerous times for an update, but DOI never provided an update or responded at all.

48. As of the date of filing, DOI has produced no responsive records.

**COUNT I – DOI'S NOVEMBER 11, 2017 (NPR-A BENEDETTO CORRESPONDENCE)  
VIOLATION OF FOIA**

49. The above paragraphs are incorporated by reference.

50. Defendant DOI is an agency subject to FOIA.

51. The requested records are not exempt under FOIA.

52. DOI has refused to produce the requested records in a timely manner.



**COUNT II – DOI’S MARCH 1, 2018 (BENEDETTO COMER COMMUNICATIONS)  
VIOLATION OF FOIA**

- 53. The above paragraphs are incorporated by reference.
- 54. Defendant DOI is an agency subject to FOIA.
- 55. The requested records are not exempt under FOIA.
- 56. DOI has refused to produce the requested records in a timely manner.

**COUNT III – DOI’S MARCH 1, 2018 (BENEDETTO MINERALS COMMUNICATION)  
VIOLATION OF FOIA**

- 57. The above paragraphs are incorporated by reference.
- 58. Defendant DOI is an agency subject to FOIA.
- 59. The requested records are not exempt under FOIA.
- 60. DOI has refused to produce the requested records in a timely manner.

**COUNT IV – DOI’S MARCH 6, 2018 (BENEDETTO FREEMYER  
COMMUNICATIONS) VIOLATION OF FOIA**

- 61. The above paragraphs are incorporated by reference.
- 62. Defendant DOI is an agency subject to FOIA.
- 63. The requested records are not exempt under FOIA.
- 64. DOI has refused to produce the requested records in a timely manner.

**COUNT VI – DOI’S MAY 21, 2018 (BENEDETTO ALLEN RECORDS)  
VIOLATION OF FOIA**

- 65. The above paragraphs are incorporated by reference.
- 66. Defendant DOI is an agency subject to FOIA.
- 67. The requested records are not exempt under FOIA.
- 68. DOI has refused to produce the requested records in a timely manner.

**COUNT VII – DOI’S JULY 12, 2018 (BENEDETTO PROTECT THE HARVEST)  
VIOLATION OF FOIA**

- 69. The above paragraphs are incorporated by reference.
- 70. Defendant DOI is an agency subject to FOIA.
- 71. The requested records are not exempt under FOIA.
- 72. DOI has refused to produce the requested records in a timely manner.

**COUNT VIII – DOI’S JULY 23, 2018 (MCALEAR MONUMENT COMMUNICATIONS)  
VIOLATION OF FOIA**

- 73. The above paragraphs are incorporated by reference.
- 74. Defendant DOI is an agency subject to FOIA.
- 75. The requested records are not exempt under FOIA.
- 76. DOI has refused to produce the requested records in a timely manner.

**COUNT IX – DOI’S JULY 23, 2018 (BENEDETTO SAEXPLORATION)  
VIOLATION OF FOIA**

- 77. The above paragraphs are incorporated by reference.
- 78. Defendant DOI is an agency subject to FOIA.
- 79. The requested records are not exempt under FOIA.
- 80. DOI has refused to produce the requested records in a timely manner.

**COUNT X – DOI’S AUGUST 28, 2018 (BENEDETTO TWIN METALS)  
VIOLATION OF FOIA**

- 81. The above paragraphs are incorporated by reference.
- 82. Defendant DOI is an agency subject to FOIA.
- 83. The requested records are not exempt under FOIA.
- 84. DOI has refused to produce the requested records in a timely manner.

**COUNT XI – DOI’S SEPTEMBER 11, 2018 (BENEDETTO HILCORP)  
VIOLATION OF FOIA**

- 85. The above paragraphs are incorporated by reference.
- 86. Defendant DOI is an agency subject to FOIA.
- 87. The requested records are not exempt under FOIA.
- 88. DOI has refused to produce the requested records in a timely manner.

**COUNT XII – DOI’S OCTOBER 11, 2018 (STEED JORJANI WISTERIA)  
VIOLATION OF FOIA**

- 89. The above paragraphs are incorporated by reference.
- 90. Defendant DOI is an agency subject to FOIA.
- 91. The requested records are not exempt under FOIA.
- 92. DOI has refused to produce the requested records in a timely manner.

**WHEREFORE,** Plaintiff asks the Court to:

- i. Order Defendant to produce the requested records;
- ii. Award Plaintiff attorney fees and costs; and
- iii. Enter any other relief the Court deems appropriate.

Dated: July 8, 2019

RESPECTFULLY SUBMITTED,

/s/ Joshua Hart Burday

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